

# **Section IV**

Responsibility 2: Rules Governing  
Acceptable Credit

## **IV. Rules Governing Acceptable Credit**

*“Issuance of rules to establish requirements to govern acceptable credit to be granted for studies completed at independent, private, public and public charter schools and private instruction, pursuant to Article II, § 1 of An Act to provide for compulsory school attendance, the taking of a school census in the District of Columbia, and for other purposes.” State Education Office Establishment Act of 2000, Section 6(b)(2).*

### **A. Background**

#### **1. Introduction**

In the District of Columbia, schools not affiliated with the D.C. Public Schools are required by compulsory school attendance laws and rules to provide educational services that are acceptable to the D.C. Board of Education. The Superintendent of the District of Columbia Public Schools requires each such school to present evidence satisfactory to the superintendent that certain aspects of their educational services are acceptable to the D.C. Board of Education:

- amount of instruction, specifically the number of hours per day, days per week, weeks per year;
- character of instruction, including subject matter and time devoted to the subjects;
- qualifications of staff, including training and educational requirements for teaching and supervisory staff; and
- other factors, including class size, facilities, attendance record keeping, and counseling services.

Schools may satisfy this requirement by providing proof that they are currently accredited by or undergoing an accreditation process by one of several recognized accrediting organizations, including The Middle States Association of Colleges and Schools, The Association of Independent Maryland Schools, The Southern Association of Colleges and Schools, The Virginia Association of Independent Schools, The American Montessori Society, The American Montessori Society Internationale, The National Academy of Early Childhood Programs, or any other accrediting body approved by the D.C. Board of Education.

Credits, diplomas, or certificates of graduation issued by educational institutions not associated with the District of Columbia Public Schools but whose educational services/programs are judged to be acceptable by the D.C. Board of Education are also acceptable to the Board for purposes of the compulsory school attendance law of the District of Columbia.

The current rules to establish requirements to govern acceptable credit to be granted for studies completed at independent, private, public and public charter schools, and private instruction also contain provisions regarding the maintenance and submission to the D.C. Board of Education of attendance records, as well as a requirement that those records be open for inspection by District of Columbia Public School personnel at all times. There is also a requirement that information on enrollments, transfers, and withdrawals of school-aged children residing in the District of Columbia be reported to the D.C. Board of Education on forms provided by the Board.

## **2. Legislation and Legislative History**

The original source of authority for such rules is contained in § 2 of an Act approved June 20, 1906, 34 Stat. 317, ch. 3446, D.C. Code §31-102. Final Rule-making by the D.C. Board of Education was published at 24 DCR 1005, 1021 (July 29, 1977); as amended by Final Rule-making by the D. C. Board of Education published at 39 DCR 2060 (March 27, 1992).

## **3. History**

Final Rule-making by the D.C. Board of Education was published at 24 DCR 1005, 1021 on July 29, 1977, amended by Final Rule-making by the D. C. Board of Education on March 8, 1991, and published at 39 DCR 2060 on March 27, 1992.

## **4. Current Status**

Currently, an attorney or other staff in the Office of the Superintendent of the District of Columbia Public Schools or in the school system's Office of General Counsel usually drafts a proposed rule affecting education. Once the draft is completed it is submitted to the Superintendent for approval. The Superintendent then forwards the approved proposed rule with a recommendation for action to the D.C. Board of Education. The D.C. Board of Education may publish the rules in the D.C. Register as a notice of proposed rule-making or combined emergency and proposed rule-making. In either case, a period for public comment is provided. The Board may also choose to reject the draft proposed rules.

In the past, the District of Columbia Public Schools' Office of Non-Public Education and Census was responsible for implementation of the rules. Currently the responsibility for carrying out the function resides in the District of Columbia Public Schools' Office of Categorical Programs and Development, and is one of several duties assigned to a senior staff member.

It should be noted here that if authority and responsibility for issuing rules to establish requirements to govern acceptable credit to be granted for studies completed at independent, private, public and public charter schools, and private instruction is transferred to the SEO, the process for issuing rules would also change. Under the SEO, the process would be as follows:

- Develop draft rules with advice and assistance from a Technical Working Group.
- Forward draft rules to State Education Officer for comment and approval for submission to the Office of Corporation Counsel for a legal sufficiency review.
- Publish draft rules in the D.C. Register, with a period of time for public comment.
- Review and consider comments from the public.
- Revise draft rules.
- Publish final rules in the D.C. Register.

## **B. Description of Practices in Other States**

All of the states canvassed had state laws concerning the issue of non-public schools as they relate to compulsory attendance laws. In four of the seven states canvassed, the State Education Agency issued rules, and in three states the State Education Agency was charged with actual implementation of the law.

### **Maryland**

All non-public educational programs, including Montessori programs, must hold a Certificate of Authority issued by the Maryland State Board of Education before they begin to operate. The only exception would be non-public schools operated by bona fide church organizations that have chosen instead to register with the Maryland State Department of Education as church exempt. Pursuant to authority conferred by Education Article, §2-206, Annotated Code of Maryland, the Maryland State Board of Education's Non-Public School Approval Branch issues regulations governing the issuance of a certificate of approval by the State Board of Education to an individual or entity to operate an educational program in a non-public nursery school, kindergarten, elementary school, secondary school, and child care center.

### **Texas**

Under Texas law, a child is exempt from the requirements of compulsory school attendance if the child attends a private or parochial school that includes in its course the study of good citizenship. The Texas Education agency does not regulate private schools at all; neither the SEA nor school districts have authority or responsibility for accrediting private schools for purposes of compulsory attendance. In fact, private schools are the exception to compulsory attendance. (The Texas Supreme Court has ruled that private schools, in this ruling, include home schooling.) However, students and their parents are subject to prosecution for failure to attend at least one category of school. School Districts are responsible for prosecuting in these instances.

The Texas Education Agency does have a role in recognizing private school accrediting bodies for purposes of transferring a student's credits or, in the case of a teacher, for awarding credit for years of service.

### **Minnesota**

The Minnesota Department of Children, Families, and Learning does not certify non-public schools for purposes of meeting compulsory school attendance laws. This responsibility and authority resides at the local school district level. Superintendents of local school districts are required to visit non-public schools to verify that, among other things, a school facility exists, instruction is occurring, and children are safe. No judgments are made about the curriculum, texts, or instruction used in non-public schools.

### **Rhode Island**

The Department of Elementary and Secondary Education approves all (approximately 125) independent and parochial (Catholic) schools. There is a comprehensive approval process, which requires a school to comply with 20 standards for approval. This process occurs during the first year of operation. In subsequent years, there is a self-reporting mechanism used annually by the schools, the results of which are submitted to the state education agency.

### **Massachusetts**

The Commonwealth of Massachusetts Department of Education has no role in certifying as approved, for purposes of compulsory attendance laws, the education services and programs offered by non-public schools. Instead, this responsibility resides with school committees that under Massachusetts law "shall approve a private school when satisfied that the instruction in all studies required by law equals in thoroughness and efficiency, and in the progress made therein, that is in the public schools in the same town; but shall not withhold such approval on account of religious teaching..."

### **North Carolina**

North Carolina has a very comprehensive attendance law that is enforced by its local education agencies. The role of the North Carolina Department of Public Instruction is to formulate rules and regulations necessary for proper enforcement and support of the efforts of local education agencies. The State Board of Education defines relevant terms, such as unlawful absences and legitimate excuses, and develops and issues forms for use by local education agencies.

Local education agencies send attendance records to the State Education Agency. However, the Department of Public Instruction does not monitor these records, because of budgetary constraints. Instead, it uses the attendance data to look at trends and calculate attendance rates for performance under the state's accountability model.

## Nebraska

All public schools in the state are required to be accredited by the Nebraska Department of Education. Non-public schools may be accredited, approved, or exempt. To be accredited or approved a non-public school must meet standards set in state law. To elect not to meet state approval or accreditation standards and to obtain exemption from provisions of compulsory attendance requirements relating to attendance at a state approved or accredited school, each of the parents or guardians of the children who will attend the exempt school and whose children are between the ages of 7 and 16 years must sign a separate Statement of Objection and Assurances, in the presence of a notary.

### C. Statement of Options

**Option One:** Transfer to the State Education Office the authority and responsibility for issuing rules to establish requirements to govern acceptable credit to be granted for studies completed at independent, private, public and public charter schools, and private instruction, pursuant to Article II, § 1 of An Act to provide for compulsory school attendance ... Responsibility for implementation of the rules would remain with the District of Columbia Public Schools.

Discussion: Issuance of these rules is an appropriate state-level education function that, if assumed by the SEO, would facilitate and support DCPS implementation activities.

#### Advantages:

- The law covers all schools in the District of Columbia, as do the rules. The transfer to the State Education Office would place authority and responsibility for the issuance of rules affecting all schools in the District of Columbia – public, private, and parochial – in an entity whose scope of responsibility is citywide and not constrained by type of school.
- Issuance of the rules by an entity whose responsibilities and authority is viewed by others to be focused solely on state-level education functions would provide requisite leverage for implementation of the statute.
- Placement in the SEO could very well provide an impetus for useful analyses of data to identify trends, patterns in attendance, and other indicators of education performance citywide.

#### Disadvantage:

- The transfer may be viewed with apprehension by some independent and parochial schools that have voiced their satisfaction with the current arrangements, particularly if the State Education Office is seen as having an agenda that is inconsistent with

their expectations and they are not invited to actively participate in the drafting of any new rules issued.

**Option Two:** The D.C. Board of Education retains the authority and responsibility for issuing rules to establish requirements to govern acceptable credit to be granted for studies completed at independent, private, public and public charter schools, and private instruction, pursuant to Article II, § 1 of An Act to provide for compulsory school attendance ... Responsibility for implementation of the rules would remain with the District of Columbia Public Schools.

Discussion: This would maintain the status quo and perpetuate the more or less passive approach to carrying out this function.

Advantage:

- Not transferring responsibility or maintaining the current arrangements would translate into little or no disruption to the current system and little possibility of resistance to change among key stakeholders.

Disadvantage:

- An opportunity for working collaboratively with key stakeholders to make improvements in the rules and to increase the usefulness of data may be lost.

## **D. SEO Recommendation and Rationale**

### **Recommendation**

Transfer to the State Education Office the authority and responsibility for issuing rules to establish requirements to govern acceptable credit to be granted for studies completed at independent, private, public and public charter schools, and private instruction, pursuant to Article II, § 1 of An Act to provide for compulsory school attendance. Responsibility for implementation of the rules would remain with the District of Columbia Public Schools.

### **Rationale**

Transfer of the rule-making authority to the State Education Office, in effect, would have these rules being issued by an agency of the Government of the District of Columbia that is considered by the public as being focused solely on state-level education functions and having citywide authority over all schools, including public, private, parochial, and home schooling. This perception would translate into an increase in credibility and acceptance of implementation efforts carried out by the District of Columbia Public Schools. Placement of the responsibility for issuing the rules in the State Education Office would not only present opportunities for collaboration with key stakeholders to improve the

rules but it also could increase the probability of improved analysis and reporting of the data collected.

## **E. Application of Decision Criteria**

### **1. Consistency With the Vision and Mission of the SEO**

Transfer to the D.C. State Education Office of the responsibility and authority to issue rules to establish requirements to govern acceptable credit to be granted for studies completed at educational institutions that are not a part of the District of Columbia Public Schools is congruent with the mission of the D.C. State Education Office to enhance the administrative efficiency of state-level functions. This transfer would place authority and responsibility for the issuance of rules affecting all schools in the District of Columbia – public, private, and parochial – in an entity whose scope of responsibility is citywide and not constrained by type of school.

Rules issued by the State Education Office of the District of Columbia would affect all schools in the city---public, private, and parochial. A current exception, however, is public charter schools, which under the District of Columbia School Reform Act of 1995, PL 104-194, §2204(c)(3)(A) are “exempt from District of Columbia statutes, policies rules, and regulations established for the District of Columbia public schools by the Superintendent, Board of Education, Mayor, District of Columbia Council, or Authority, except as otherwise provided in the school’s charter or this subtitle.”

### **2. Effect on the Transferring Agency**

Under D.C. Law 8-247, The District of Columbia Compulsory Attendance Amendment Act of 1990, the D.C. Board of Education has authority to issue rules to establish criteria to determine whether instruction, credits, and diplomas provided by educational institutions not affiliated with the District of Columbia Public Schools will be deemed “acceptable to the D. C. Board of Education.” The transfer of rule-making responsibility to the State Education Office would require a modification of current law.

The transfer should have little or no effect on the D.C. Board of Education; however, it should enhance the ability of the Superintendent of the District of Columbia Public Schools to effectively carry out his/her responsibilities and mission. The rules under consideration impact all educational institutions outside of the District of Columbia Public Schools, including private instruction/home schooling. The authority of the D.C. Board of Education may at times be questioned when its reach extends beyond the public schools into private or parochial schools.



### **3. Effect on the Quality of Educational and Other Services to Children and Adults**

The transfer of this rule-making authority should have no effect on the quality of educational services provided by educational institutions not affiliated with the District of Columbia Public Schools.

### **4. Potential for Duplication of Functions**

There is little, if any, likelihood of duplication of functions if authority and responsibility for writing these rules are transferred from the D.C. Board of Education to the State Education Office and current law is modified to provide for the transfer.

### **5. Effect on Reporting Requirements**

There would be an increase in reporting requirements related to implementation of these rules. The Superintendent of the District of Columbia Public Schools might be required to report annually or biannually on progress and problems related to implementation. The purpose of the reports would be to provide information needed to determine if requisite data were being received by the Superintendent and how the data were being analyzed and used. The format and timing of reports would be established in a collaborative manner so as to minimize the reporting burden and maximize the utility of these reports.

### **6. Potential for Conflict of Interest**

There should be little or no potential for conflict of interest if the responsibility and authority for issuing the rules is transferred to the D.C. State Education Office.

### **7. Effect on Cost**

The most significant cost would be that of staff time. It is expected that the responsibility for developing rules to establish requirements to govern acceptable credit to be granted for studies completed at educational institutions that are not a part of the District of Columbia Public Schools, as well as any attendant tasks, would be included in the portfolio of a senior person on the staff of the D.C. State Education Office.

## **F. Transition Plan for Assumption of the Function**

### **1. Authority and Responsibility of Each Party at Each Stage of the Transition**

The State Education Office Establishment Act of 2000 provides for the study of and the development of a recommendation as to whether the State Education Office should have responsibility and authority for issuing rules to establish requirements to govern acceptable credit for studies completed at independent, private, public and public charter schools, and private instruction, pursuant to Article II, I of An Act to provide for compulsory school attendance.

If the decision is made to transfer authority and responsibility for the issuance of these rules to the State Education Office, there will be a need to modify current legislation governing compulsory school attendance in the District of Columbia to transfer from the D.C. Board of Education to the State Education Office of the District of Columbia the authority for issuing rules to establish requirements to govern acceptable credit for studies completed at independent or private schools and private instruction.

The D.C. Board of Education and the D.C. Public Schools would be active participants in State Education Office efforts to develop new rules. The State Education Office has established a precedent of working with stakeholders to develop draft rules it plans to issue, and is particularly sensitive, in this case, to the variety of perspectives and vested interests. Consequently, if the transfer of responsibility were approved, the State Education Office would immediately take steps to establish a Technical Working Group to provide advice and assistance in the development of draft rules for establishing requirements to govern acceptable credit for studies completed at independent, private, public and public charter schools, and private instruction. This Technical Working Group would consist of representatives of the D.C. Board of Education, D.C. Public Schools, parochial schools, independent schools, home schools, public charter schools, advocacy groups, Council of the District of Columbia, and others.

Once established, the Group, under the leadership of a senior staff member of the State Education Office, would participate in the development of a strategy and plan of action with timelines.

## **2. Dates and Benchmarks for Assumption of Authority, Responsibility, Budget, and Employees**

No transfer of employees from the Board of Education is anticipated. Instead, it is expected that responsibility for developing the rules will be included in the portfolio of a professional on the staff of the State Education Office, with experience and skills in the following:

- preparation of government rules and regulations;
- management and provision of leadership to issue-specific work groups representing a range of diverse perspectives;
- problem resolution; and
- preparation and analysis of technical reports.

**3. Estimated Cost to the SEO for Assumption and Management of Function and Recommended Source(s) of Revenue**

It is anticipated also that costs associated with the development of the rules would be minimal and included, along with other core functions, in the general budget authority of the State Education Office.

**4. Factors With Potential for Disrupting Services to Students and Recommended Steps to Prevent Disruption**

Disruption of services to students is highly unlikely. The existence of current rules and the timing of the decision with regard to the transfer of responsibility should provide sufficient time for a thoughtful and orderly process. The State Education Office goal would be to have published final rules in sufficient time for use in school year 2002-2003.